

Changes to Montana's Elder Abuse Protection Act to Better Prosecute Criminal Acts to Seniors

Senate Bill 134

Sponsor: Senator John Brenden

SENATE JUDICIARY

EXHIBIT NO. 1

DATE 1/17/13

FILE NO. SB 134

Background:

The Elder Abuse Prevention Act, originally enacted in 1992, provided a definition for elder abuse with penalties for people who commit the abuse. The goal for the Act was to:

1. Protect Montana seniors and adults with disabilities from financial and physical abuse.
2. Raise community awareness about physical and financial abuse of seniors.
3. Allow for proper prosecution of criminal that abuse our seniors
4. Deter criminal acts against Montana seniors and adults with disabilities.

A Serious Problem:

Since its inception, the bill has only been used in a total of **65 prosecutions** in Montana. It is recognized nationally that only 1 in 5 cases of elder abuse are reported. In 2010, Adult Protective services report over **5,500 reports of elder abuse in Montana.**

These statistics reflect that crimes are not being reported and that prosecutors are not using the Elder Abuse Prevention Act. According to prosecutors, the definition of "older person" in the current law needs to be revised to prosecute offenders with it.

Purposed Changes to Montana Elder Abuse Act:

1. Clarify the definition of "older person".

The bill will eliminate the need for prosecutors to prove the victim's capacity due to mental or physical impairment.

Benefit: Currently, prosecutors are currently not using the act because of the how the definition of "older person" restricts their ability to prosecute offenders under the act. Instead, they are charging offenders with theft. Not using the act means elder abuse in Montana is underreported. We can't raise community awareness or determine the need of seniors without knowing how many Montana seniors are being abuse or exploited.

2. Add a mandatory minimum of 1 year on the penalty when a criminal financially exploits a senior and steals more than \$25,000.

Benefit: A Montana senior whose savings account has been taken by a criminal deserves to see restitution. Montanans who are 60 years or older have less time and ability to recover from a financial theft then someone age 40 or younger. This penalty models the embezzlement from an employer laws and could help deter future crimes. Plus, criminals who commit felony property crimes are entitled to a probationary/community placed sentence.

Other talking points:

- Montana's population of seniors is expected to double between now and 2030. It is estimated they will represent 25% of the states total population within the next 4 years placing Montana 4th in the nation per capita for numbers of senior citizens. Financial exploitation of elders in Montana is under reported and will increase over the next generation.
- People over 50 years of age control at least 70% of the nation's households net worth, they are frequent targets for exploiters. Victims are typically female, frail, and mentally impaired 75% are between the ages of 70 and 80 years of age.
- We are living in the era of global stranger scams where elders are from a more trusting generation.